

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

STEPHEN GILL and MICHELLE GILL,
husband and wife,

Plaintiffs,

vs.

CASE NO.: 05-cv-10309-MLW

UNITED STATES OF AMERICA,

Defendant.

**NOTICE TO THE COURT OF PENDANCY OF ACTION FOR MORE THAN 120 DAYS
WITHOUT A SCHEDULING CONFERENCE BEING CONVENED UNDER LR 16.1**

Plaintiff STEPHEN GILL and Plaintiff MICHELLE GILL, husband and wife
(collectively, "Plaintiffs"), by and through their undersigned counsel, and pursuant to Fed.R.Civ.
P. 16(b) and LR, D.Mass. 16.1(a), hereby file the within Notice to the Court as follows:

1. Plaintiffs served their Complaint in the instant civil action upon Defendant UNITED STATES OF AMERICA ("Defendant") on February 17, 2005. [*See* Dkt. #1 & #3].
2. By filing and serving its first motions for extension of time to answer or otherwise respond to Plaintiffs' Complaint on April 14, 2005, Defendant entered its appearance in this action. [*See* Dkt. # 4].
3. District of Massachusetts Local Rule 16.1(a), in part, provides:

RULE 16.1 EARLY ASSESSMENT OF CASES

(a) Scheduling Conference in Civil Cases. In every civil action, except in categories of actions exempted by LR 16.2 as inappropriate for scheduling procedures, the judge or, in the interests of the efficient administration of justice, a designated magistrate judge *shall* convene a scheduling conference as soon as practicable, but in any event *within ninety (90) days after the appearance of a defendant and within one hundred twenty (120) days after the complaint has been served on a defendant.*

Id. (emphasis added).

4. The instant civil action is not a category of action exempted by LR, D.Mass. 16.2.
5. To date, it has been 287 days since the Plaintiffs served their Complaint on Defendant.
6. To date, it has been 231 days since the Defendant entered its appearance.
7. “Over seven centuries ago, King John at Runnymede set his unwillingly hand to the Great Charter of English Liberty. Among other things promised this — ‘To no one will We sell, to none will We deny or delay, right or justice.’¹ King John probably never meant it and soon repudiated it, but he had set forth the ideal toward which English-speaking people are ever striving — that justice shall be swift and simple and reasonable in cost.” Robert H. Jackson, Solicitor General of The United States, *The Law Catches up with the Times*, (Nov. 21, 1938) (Speech arranged by THE WASHINGTON STAR, broadcast over a nation-wide network of the National Broadcasting Company, and published in THE EVENING STAR, THE SUNDAY STAR, Washington, D.C.).
8. To date, no scheduling conference has been convened.

NO LOCAL RULE 7.1(a) CERTIFICATION REQUIRED

The within Notice to the Court is not a motion. Accordingly, no conference pursuant to LR, D.Mass. 7.1(a) is required.

¹“*Nulli vendemus, nulli negabimus, aut differemus rectum aut justiciam.*” Magna Carta, chapter 40 (1215). This is the genesis of the Anglo-American legal maxim: “*justitia neganda, est justitia differenda*,” that is, “justice delayed is justice denied.”

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of December, 2005, I electronically filed the within document with the Clerk of Court by using its CM/ECF system which, in turn, will electronically transmit notice of the same to the following: Kristen Materne, Esq., Law Offices of Timothy J. Morgan, 33 College Hill Road, Suite 15G, Warwick, RI 02886; and AUSA Eugenia M. Carris, United States Attorney's Office, 1 Courthouse Way, Suite 9200, Boston, MA 02210. I further certify that a true and correct copy of the foregoing was sent this same day by U.S. Mail to said person(s).

/s/ Stephen D. Gill

STEPHEN D. GILL

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